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TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.  
NUM.0017US

Re Application Of: Claude M. Leglise, et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/584,520	May 31, 2000	Yehdega Retta	21906	3622	1973

Invention: Remotely Managing and Controlling a Consumer Appliance

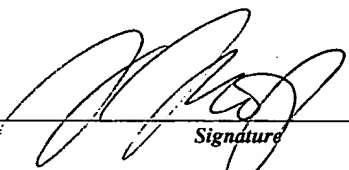
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March 24, 2008

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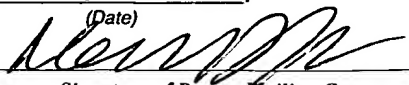
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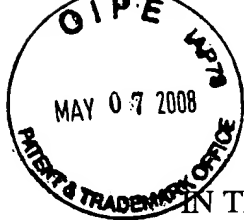
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Dated: May 5, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Claude M. Leglise

Serial No.: 09/584,520

Filed: May 31, 2000

For: Remotely Managing and  
Controlling a Consumer  
Appliance

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Art Unit: 3622

Examiner: Yehdega Retta

Docket: NUM.0017US

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**APPEAL BRIEF**

05/07/2008 NNGUYEN1 00000053 09584520

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Adjustment date: 05/07/2008 NNGUYEN1  
06/30/2004 YPOLITE1 00000125 09584520  
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**REAL PARTY IN INTEREST**

The real party in interest is the assignee Numonyx, Inc.

**RELATED APPEALS AND INTERFERENCES**

None.

## **STATUS OF CLAIMS**

Claims 1-65 (Canceled).

Claims 66-85 (Rejected).

Claims 66-85 are rejected and are the subject of this Appeal Brief.

### **STATUS OF AMENDMENTS**

The amendments in the Reply to Final Rejection submitted on January 30, 2008 were entered. All amendments have therefore been entered.

## **SUMMARY OF CLAIMED SUBJECT MATTER**

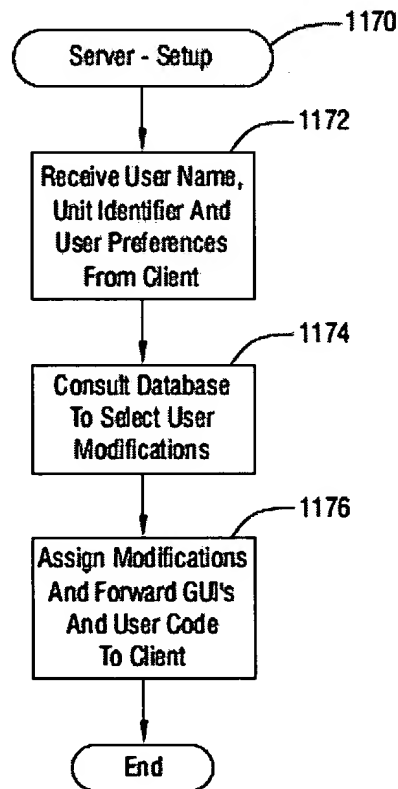
In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

66. A method comprising:

providing a customer identifier together with information about the identified customer's preferences to a service provider (Fig. 11, 1172; p. 15:12-16);

receiving a plurality of graphical user interfaces from said service provider, each graphical user interface of said plurality of graphical user interfaces to include content related to the products or services of a particular retail vendor, the content customized, at least in part, based on said information and not to include advertising for another retail vendor (Fig. 11, 1176; p. 16:6-11); and

preventing the identified customer from using Internet services through said service provider without the customer first viewing, in sequence, at least three graphical user interfaces from said plurality (Figs. 2, 3, 4; p. 9:12-18).



**FIG. 11**

71. A method comprising:

keeping a record of a user's activities on an activity graphical user interface, the activity graphical user interface received on a processor-based system from a service provider, said activity graphical user interface to include content that is customized for the user on behalf of a particular retail vendor, said activity user interface without content from other, unrelated retail vendors (Fig. 11, 1172; p. 15:1-11);

in response to the selection of an indicator on a sign-in graphical user interface, identifying a current user of the processor-based system, said sign-in graphical user interface having different indicators for each known user of said particular processor-based system (Fig. 10, 1062-1064; p. 13:23-p. 14:5); and

customizing content for a selection graphical user interface, said customization based on the current user of the processor-based system, the current user's recorded user input, and the products or services of the particular retail vendor, said selection graphical user interface being a different interface than said activity graphical user interface and said sign-in graphical user interface (Fig. 11, 1174, 1176; p. 14:21-26).

81. A machine-readable medium having instructions that when executed cause a machine to:

receive a user identifier to track the activities of the identified user of the machine (Fig. 11, 1172; p. 15:12-16);

receive a plurality of graphical user interfaces on behalf of a particular retail vendor, the graphical user interfaces to include content customized for the identified user based on that user's activities and said particular retail vendor's products or services, other content on said plurality of graphical user interfaces devoid of advertising relating to other retail vendors (Fig. 11, 1174; p. 15:18-22); and

in response to each selection made by the identified user on sequentially displayed graphical user interfaces, modify the customized content on the graphical user interfaces based on the selections (Fig. 11, 1176; p. 16:6-13).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

- A. Whether claims 66-85 fail to comply with the written description requirement under 35 U.S.C. § 112, first paragraph.**
- B. Whether claims 66-70 and 81-85 are unpatentable under 35 U.S.C. § 103(a) over BISYS (BISYS® Enables Financial Institutions to Bring Direct Internet Access Services to Their Customers: January 10, 2000; PRNewswire) in view of Rangan (US 6,412,073).**
- C. Whether claims 71-80 are unpatentable under 35 U.S.C. § 103(a) over Rangan (US 6,412,073) in view of BISYS (BISYS® Enables Financial Institutions to Bring Direct Internet Access Services to Their Customers: January 10, 2000; PRNewswire).**

## ARGUMENT

### **A. Whether claims 66-85 fail to comply with the written description requirement under 35 U.S.C. § 112, first paragraph.**

#### Claims 66-85

Claims 66-85 were rejected as failing to comply with the written description requirement. Specifically, the clause "each graphical user interface to include content related to the products or services of a particular retail vendor, the content customized, at least in part, based on said information and not to include advertising for another retail vendor" was alleged to be unsupported because "the specification does not teach each graphic user interface to include content related to the products or services of a particular retail vendor and not to include advertising for another retail vendor." Office Action at page 2.

Apparently the basis for this objection is that "each" is read as meaning every interface that ever appears on the screen must be so configured. Claim 66 calls for "receiving a plurality of graphical user interfaces" and then goes on to refer to each graphical user interface of said plurality of graphical user interfaces". Necessarily, "each graphical user interface" relates to the asserted plurality. Therefore the rejection of claim 66 should be reversed.

The maintenance of this rejection "for the same reason state above" with respect to claims 71 and 81 makes no sense. The language in issue is not present in claim 71 or 81. Therefore these rejections should be reversed.

#### Claim 71

Claim 71 was also rejected as lacking antecedent basis for a "sign-in graphical user interface". The graphical user interface is not claimed in claim 71 but is only incidental structure to the claimed method. Therefore, the phrase need not have an antecedent basis. The claim is a method claim involving use of a graphical user interface. Therefore, there is no antecedent basis issue.

With respect to the rejection of claim 71 based on the language "activity graphical user interface without content from other unrelated retail vendors", it is asked if the applicant intended to claim that the interface to include content from others. The claim is directed to not

including content from other, related retail vendors in the activity graphical user interface. It is believed that the claim is clear.

On page 4 of the office action it is indicated that "said selection graphical user interface other than said activity graphical user interface and said sign in graphical user interface" in claim 71 is unclear. The claim is clear as now worded.

#### Claim 81

With respect to the objection to claim 81, the clause "from said service provider" was deleted and so the claim is now clear.

**B. Whether claims 66-70 and 81-85 are unpatentable under 35 U.S.C. § 103(a) over BISYS (BISYS® Enables Financial Institutions to Bring Direct Internet Access Services to Their Customers: January 10, 2000; PRNewswire) in view of Rangan (US 6,412,073).**

The rejection of claim 66 asserts that BISYS teaches that the content is customized based on information and not including content from another retail vendor. (Final Rejection at p. 5.) The claim specifically requires receiving a plurality of graphical user interfaces, each of that plurality including content related to the products or services of a particular retail vendor and the content being customized based on the information received from the client. This simply does not happen in BISYS.

Further, it is asserted that BISYS teaches preventing the identified customer from using Internet services through said service provider without first viewing, in sequence, three graphical user interfaces from said plurality. (Final Rejection at p. 5.) There is nothing of the sort described in the FirstLinq. There is no discussion of the initial user interfaces and no suggestion that the customer is prevented from doing anything.

Customizing the next interface after the sign in interface is not inherent. (Final Rejection at p. 5.) In order to be inherent, the thing must be necessarily present. See M.P.E.P. § 2112. There is no reason why this is so here. The allegation that "Internet service providers, such as AOL, have been doing this for years" (*see* Final Rejection at p. 5) is irrelevant. This application was filed in 2000, which is more than a few years. No cited reference teaches this feature. To the extent it is asserted that such a thing is well known, the Examiner should have cited a

reference (as previously requested) since there is no reason to believe that it was well known in 2000, when the present application was filed.

It is suggested on page 6 of the Final Rejection that anything in the cited material in Rangan teaches customizing the content in a plurality of graphical user interfaces to include content related to products and services of a particular vendor customized based on input information about the customer's preferences. There is nothing in Figure 2 about the products or services of a particular vendor, nor anything that is customized based on such information. All there is is a list of websites and the associated user name.

It is also noted that Rangan teaches a log in interface before user accessing the Internet and modifying the interface based on a selection made in a prior interface. This does not correspond to providing a customer identifier, together with information about identified preferences, and has nothing to do with providing a plurality of graphical user interfaces related to the products of a particular retail vendor, customized based on the information about the identified customer's preferences. All the material at lines 18-50 talks about is the customized interface to include user configured URLs. This still does not correspond to what is claimed. In other words, all the reference teaches is that the user can bookmark web pages and get them later. It does not talk about receiving information about the identified customer's preferences and using that information to select products or services of a particular retail vendor. In other words, the claim calls for content customized based on information. That content must be related to the products or services of the particular retail vendor. There are no products or services or any customization of products or services in the list of web pages. Most certainly, it is not limited to the services of one retail vendor, but, clearly, covers a number of different websites. Thus, the cited reference simply teaches away.

The suggestion that it would be obvious to provide a login and password page, as in Rangan, so users could securely access the Internet is not commensurate with the claim language.

A *prima facie* rejection is not made out because there is no receiving of a plurality of graphical user interfaces customized with content related products or services of a particular retail vendor, the customization based on the information about the identified customer's preferences and not including advertising for any other retail vendor.

**C. Whether claims 71-80 are unpatentable under 35 U.S.C. § 103(a) over Rangan (US 6,412,073) in view of BISYS (BISYS® Enables Financial Institutions to Bring Direct Internet Access Services to Their Customers: January 10, 2000; PRNewswire).**

Claim 71 was rejected over Rangan and BISYS as well. It is suggested that customizing "content for a graphical user interface; current user's recorded user input and the product or services of a particular vendor" is shown in Figure 2, abstract, and column 5, lines 17-67 and column 7, line 50 to column 8, line 23, and column 9, lines 18-50. As described above, Rangan is silent on each of these points. To the extent the listing of web pages could be called content, it is not customized based on information received from the user and it is not limited to content related to products or services and, further, it is not limited to the products or services of a particular vendor.

BISYS does not overcome this deficiency.

The suggestion (office action at page 8) that it would be obvious to one of skill in the art at the time of the invention for Rangan to use the virtual Internet service provider of BISYS to provide Internet service for the reasons disclosed in BISYS, even if true, does not meet the limitations of the claims. Further, the allegation that Rangan teaches providing Internet services to known users of the processor-based system is also noted, but, again, does not meet the claimed limitations.

The claim calls for a sign-in graphical user interface having different indicators for each known user of the particular processor-based system. The indicator must be selectable because the claim says: in response to selection of an indicator, identifying a current user. There is no reason to believe that the indicators allegedly taught in Figure 2 of Rangan are selectable. Note that the one for two names, John/Jane Doe, even if selectable, could not select one or the other of the two. Moreover, there is simply no reason to presume that these names are selectable.

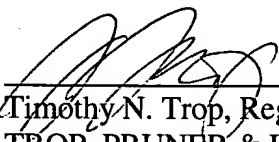
Finally, the claim calls for customizing content based on the current user and the recorded user inputs and the products or services of a particular retail vendor. This is not taught in any of the cited references. A selection graphical user interface that is different from the activity graphical user interface and the sign in graphical user interface is not suggested in any of the cited references.

\* \* \*

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: May 5, 2008



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## **CLAIMS APPENDIX**

The claims on appeal are:

66. A method comprising:  
providing a customer identifier together with information about the identified customer's preferences to a service provider;  
receiving a plurality of graphical user interfaces from said service provider, each graphical user interface of said plurality of graphical user interfaces to include content related to the products or services of a particular retail vendor, the content customized, at least in part, based on said information and not to include advertising for another retail vendor; and  
preventing the identified customer from using Internet services through said service provider without the customer first viewing, in sequence, at least three graphical user interfaces from said plurality.
67. The method of claim 66 including tracking the customer's activities while interacting with the graphical user interfaces in said plurality.
68. The method of claim 67 including receiving updated content for said plurality of graphical user interfaces based on said tracking.
69. The method of claim 66 including modifying, on a client system, the content of one graphical user interface in said sequence based on a selection made in the immediately prior graphical user interface in said sequence.
70. The method of claim 66 wherein providing a customer identifier together with the identified customer's preferences includes providing a plurality of customer identifiers to identify each customer that uses a particular client system, and receiving graphical user interfaces from said service provider, a set of said graphical user interfaces customized for each identified customer.

71. A method comprising:

keeping a record of a user's activities on an activity graphical user interface, the activity graphical user interface received on a processor-based system from a service provider, said activity graphical user interface to include content that is customized for the user on behalf of a particular retail vendor, said activity user interface without content from other, unrelated retail vendors;

in response to the selection of an indicator on a sign-in graphical user interface, identifying a current user of the processor-based system, said sign-in graphical user interface having different indicators for each known user of said particular processor-based system; and

customizing content for a selection graphical user interface, said customization based on the current user of the processor-based system, the current user's recorded user input, and the products or services of the particular retail vendor, said selection graphical user interface being a different interface than said activity graphical user interface and said sign-in graphical user interface.

72. The method of claim 71 including providing Internet services to the known users of the processor-based system through said service provider on behalf of said retail vendor.

73. The method of claim 72 including preventing the known users of said processor-based system from accessing said Internet services without first receiving said selection graphical user interface.

74. The method of claim 71 including receiving the preferences of each known user of said processor-based system.

75. The method of claim 74 including providing said preferences and the record of each user's activities to said service provider and not to said particular retail vendor.

76. The method of claim 71 including receiving said selection graphical user interface from said service provider, said selection graphical user interface having a predefined set of selectable options that, if selected, will cause the system to access said particular retail vendor's web site.

77. The method of claim 76 including receiving an activity graphical user interface from said service provider in response to the current user's selection of a selectable option on said selection graphical user interface that is not related to said particular retail vendor.

78. The method of claim 77 wherein receiving an activity graphical user interface includes receiving a help activity graphical user interface in response to selection of a help button on said selection graphical user interface.

79. The method of claim 77 wherein receiving an activity graphical user interface includes receiving an activity graphical user interface for Internet services, said Internet services activity graphical user interface to provide a limited number of options.

80. The method of claim 77 wherein receiving an activity graphical user interface includes receiving an activity graphical user interface for e-mail services.

81. A machine-readable medium having instructions that when executed cause a machine to:

receive a user identifier to track the activities of the identified user of the machine;

receive a plurality of graphical user interfaces on behalf of a particular retail vendor, the graphical user interfaces to include content customized for the identified user based on that user's activities and said particular retail vendor's products or services, other content on said plurality of graphical user interfaces devoid of advertising relating to other retail vendors; and

in response to each selection made by the identified user on sequentially displayed graphical user interfaces, modify the customized content on the graphical user interfaces based on the selections.

82. The machine-readable medium of claim 81 further storing instructions that when executed cause the machine to receive a user identifier for each user of the machine.

83. The machine-readable medium of claim 82 further storing instructions that when executed cause the machine to modify customized content for one identified user based on another identified user's preferences and past activities.

84. The machine-readable medium of claim 81 further storing instructions that when executed cause the machine to provide a log of the tracked activities to a service provider for service provider modification of customized content.

85. The machine-readable medium of claim 81 further storing instructions that when executed cause the machine to modify the customized content on the machine.

## **EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.